

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

LANDON DAVID PARKER, by next friends	§	
John Chauvet Parker and Cristin Parker,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 1:11-cv-12-LY
	§	
CHRIS TRAYLOR, in his official capacity	§	
as COMMISSIONER, TEXAS	§	
DEPARTMENT OF AGING AND	§	
DISABILITY SERVICES, and TOM SUEHS,	§	
in his official capacity as EXECUTIVE	§	
COMMISSIONER, TEXAS HEALTH AND	§	
HUMAN SERVICES COMMISSION,	§	
Defendants.	§	

**PLAINTIFF'S UNOPPOSED MOTION FOR ENTRY OF  
PRELIMINARY INJUNCTION**

TO THE HONORABLE LEE YEAKEL, UNITED STATES DISTRICT JUDGE:

Plaintiff Landon David Parker, by next friends John Chauvet Parker and Cristin Parker, hereby move for Entry of Temporary Injunction against Chris Traylor, in his official capacity as Commissioner, Texas Department of Aging and Disability Services ("DADS"), and Thomas Suehs, in his official capacity as Executive Commissioner, Texas Health and Human Services Commission (individually "HHSC" and, collectively with DADS, the "Defendants").

**I. Plaintiff's Claims**

Plaintiff's Complaint is framed as a procedural due process claim under 42 U.S.C. § 1983 and the Texas Administrative Code (the "Procedural Due Process" claim), alleged violation of the Americans with Disabilities Act (the "ADA") and Section 504 of the Rehabilitation Act of 1973 ("Section 504"), and state law claims based on the Persons with Mental Retardation Act (the "PMRA").

## **II. Procedural History**

Plaintiff filed his suit on or about January 5, 2011 requesting declaratory and injunctive relief. On January 7, 2011, the court granted the Plaintiff's Motion for a Temporary Restraining Order. On January 20, 2011, the Court granted a Joint Motion to Extend the Temporary Restraining Order until May 16, 2011.

Defendant filed a Motion to Dismiss on or about February 1, 2011. The Court denied that Motion on March 16, 2011. Defendants have not yet been required to file an answer in this case. This matter is currently set for a hearing on the Plaintiff's request for a preliminary injunction on May 16, 2011.

## **III. Unopposed Motion for Entry of Temporary Injunction**

The parties are continuing to work to determine whether a plan of care for Plaintiff within the statutory cost limit can be found. If so, the parties anticipate that this case will either be resolved by agreement, or the nature of the dispute will so fundamentally change that it will likely moot these proceedings. Defendants have been consulted regarding the contents of this motion and the proposed order and have no objection to it being granted.

Because the parties would prefer to have Plaintiff enrolled in a plan of care rather than litigate this case, they have agreed not to litigate the merits of a Preliminary Injunction, and Plaintiff hereby requests such injunction be entered requiring Defendants to continue to fund Plaintiff's in home nursing care at its current level until further orders from the Court.

## **IV. Prayer**

Accordingly, the Plaintiff prays that the court grant its Motion and enter into the record a Preliminary Injunction requiring Defendants to continue to fund Plaintiff's in home nursing care

at its current level until further orders from the Court. Additionally, the Plaintiff prays that the May 16, 2011 9:00 a.m. hearing on his Motion for Preliminary Injunction be cancelled.

Respectfully submitted,

/s/ Sean A. Jackson  
SEAN A. JACKSON  
State Bar. No. 24057550  
1500 McGowen, Ste. 100  
Houston, TX 77004  
(713) 974-7691 (Phone)  
(713) 974-7695 (Fax)  
E-mail: sjackson@drtx.org

ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was sent via the Court's ECF system on the 11<sup>th</sup> day of May, 2011, to the Defendants' attorney of record:

ERIC L. VINSON  
State Bar No. 24003115  
Assistant Attorney General  
General Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
(512) 463-2120 (Phone)  
(512) 320-0667 (Fax)  
Email: eric.vinson@oag.state.tx.us

/s/ Sean A. Jackson  
SEAN A. JACKSON